

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-461

December 15, 2004

PHIL THAYER, ET AL
Request for Commission Investigation Into the
Charges for Off-Season, Suspended Phone
Service in Maine

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

We dismiss the complaint filed by Phil Thayer and 31 other persons (Complainants) against Verizon-Maine (Verizon) because we find the complaint is without merit for the reasons explained below.

II. BACKGROUND

On July 12, 2004, the Commission received a complaint, filed pursuant to 35-A M.R.S.A. § 1302, signed by 32 persons asking the Commission to set more reasonable rates for Verizon's suspended telephone service in Maine. According to the Complainants, Verizon charges \$32 to initiate suspended service and it limits suspended service to 9 months. The Complainants ask that: 1) that there be no initiation fee; 2) suspended service be allowed for periods between 15 days and 10 consecutive months; and 3) the monthly fee be \$7.00 per month (including taxes and other charges).

Verizon responded to the complaint on July 22, 2004. Verizon states that the complaint lacks merit and should be dismissed without further investigation. Specifically, Verizon states that the limit of nine consecutive months is a requirement of the Federal Communications Commission (FCC), that the monthly charge of 50% of the local service rate has been previously approved by the Commission and is permitted under Verizon's Alternative Form of Regulation and that the non-recurring fee of \$32 is appropriate as it covers Verizon's costs to negotiate the change, suspend service and subsequently restore service. It notes that this fee cannot be compared to any charges of Central Maine Power Company (CMP), as its costs and investments are not comparable to Verizon's.

On November 3, 2004, Staff issued a draft decision recommending that the Commission dismiss the complaint as without merit. OPA, Verizon and Mr. Thayer filed responses and exceptions to the draft decision. On November 17, 2004, the Presiding Officer allowed additional opportunity to comment. All parties filed additional comments. The Commission deliberated this matter on December 13, 2004.

III. STANDARD OF REVIEW

When ten or more persons file a complaint pursuant to 35-A M.R.S.A. § 1302, the utility has 10 days following Commission notice to respond. If after receipt of the response the Commission is satisfied that the utility has taken adequate steps to remove the cause of the complaint, or the complaint is without merit, the complaint can be dismissed. "Without merit" means there is no statutory basis for the complaint i.e., that the PUC has no authority to grant the relief requested or the rates, tolls or service are not "in any respect unreasonable, insufficient or unjustly discriminatory...or inadequate . 35-A M.R.S.A. § 1302(1)." See, *Agro v. Public Utilities Commission*, 611 A.2d 566, 569 (Me. 1992).

IV. DECISION

We find that the complaint is without merit as the rates charged are not unreasonable and are contained in Commission-approved tariffs. We further find that the FCC has mandated the time allowed for suspended service, so we are without authority to change it.

During the period when phone service is suspended, Verizon charges customers 50% of the regular monthly rate. Currently 50% equals \$8.79 for economy service and \$9.54 for premium service.¹ This is provided for in a Commission-approved rate contained in Verizon's tariffs (Part A, Section 3, Page 5, 3.1.5). The temporary suspension of service charge of \$32 is also contained in Verizon's tariffs (Part M, Section 1, Page 7, 1.3.3). Verizon uses the charge to recover its costs to start and stop service and it has also been approved by the Commission. As Verizon points out its November 30, 2004 response, the total Verizon charge for nine months of suspended service in Maine is \$111.11.² Because most of Verizon's costs are fixed, it is not unreasonable to charge customers for those fixed costs even when service is suspended. The costs of the wires to residences and maintenance of wires and switches all remain constant whether a phone is used or not. Complainants argue that the monthly charge should be the same as CMP's minimum monthly charge of \$7. CMP's minimum charge reflects the cost of 100 kWhs of usage. CMP's costs and investments are also different from Verizon's. Complainants as seasonal customers have provided no information to show that it is less costly to serve them than other customers. It is possible that we could find that seasonal customers do not impose

¹ In addition to 50% of the regular monthly rate, customers with suspended service pay 50% of the subscriber line charge as mandated by the Federal Communications Commission (\$3.40) and surcharges for universal service, schools and libraries, 911 and taxes. These mandated fees and state and federal taxes add an additional \$4 to \$5 to the monthly bill.

² This total charge is higher than Maine in Vermont and Massachusetts and lower in New Hampshire and Rhode Island.

significantly lower costs on the system, thereby justifying rates closer to year-round customers.

The Complainants also seek a period of time between 15 days and 10 consecutive months for temporary suspension of service. Verizon is correct that the FCC requires a service to be active for at least 90 days in each year (and therefore disconnected no more than 9 months), in order for an account to maintain the same phone number. If these limits are not followed, the number becomes eligible for assignment to another customer. See, FCC Third Report and Order, Docket 99-200 (FCC 01-362) at ¶ 122. Therefore, the Maine Commission is without authority to require Verizon to change these time periods assuming customers wish to maintain the same phone number.

V. CONCLUSION

We find that Verizon is correctly applying its Suspended Service Rate and Temporary Suspension of Service Charge and that the rates are not unreasonable. Therefore, we dismiss the complaint filed by Complainants on July 12, 2004.

Dated at Augusta, Maine, this 15th day of December, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.